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71

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/718,929	11/19/2003	Karl Guthrie	P 6040.13006	3155
30615	7590	03/20/2006	EXAMINER	
BIRDWELL & JANKE, LLP			LUGO, CARLOS	
1100 SW SIXTH AVENUE			ART UNIT	PAPER NUMBER
SUITE 1400				
PORTLAND, OR 97204			3676	

DATE MAILED: 03/20/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/718,929	GUTHRIE ET AL.	
	Examiner Carlos Lugo	Art Unit 3676	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 17 January 2006.
 2a) This action is FINAL. 2b) This action is non-final.
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 34-59 is/are pending in the application.
 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
 5) Claim(s) _____ is/are allowed.
 6) Claim(s) 34-59 is/are rejected.
 7) Claim(s) _____ is/are objected to.
 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
 10) The drawing(s) filed on 19 November 2003 is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) Notice of References Cited (PTO-892)
 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
 Paper No(s)/Mail Date _____.
 4) Interview Summary (PTO-413)
 Paper No(s)/Mail Date. _____.
 5) Notice of Informal Patent Application (PTO-152)
 6) Other: _____.

DETAILED ACTION

1. This Office Action is in response to applicant's amendment filed on January 17, 2006.

Claim Objections

2. **Claims 58 and 59 are objected to** because of the following informalities:

- Claim 58 Line 2, change "comprising" to -comprising the steps of-.
- Claim 59 Line 2, change "comprising" to -comprising the steps of-.

Appropriate correction is required.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

- The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter, which the applicant regards as his invention.

4. **Claim 59 is rejected** under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 59 recites the limitation "pushing on the handle member so as to unlock the toggle bar from the closed position and releasing the handle member subsequent to said step of pushing, wherein the toggle bar is automatically pulled toward the hole plug, to automatically adjust the safety toggle bolt to the depth of the hole".

It is unclear what the applicant is trying to claim as his invention by these steps. According to the claim language first the user push on the handle member 11 so as to unlock the toggle bar from the closed position seen in Figure 2a. Then the user release the handle member 11 so that the toggle bar 14 is automatically pulled

toward the hole plug, to automatically adjust the safety toggle bolt to the depth of the hole.

If an user push the handle 11 so as to unlock the toggle bar from the position in Figure 2a, then the user release the handle so that the toggle bolt would move out of the closed position by means of the toggle spring into the position seen in Figure 1.

Therefore, in order to continue with the examination, the limitation will be examined as pushing on the handle member so as to unlock the toggle bar from the closed position and releasing the handle member subsequent to said step of pushing, wherein the toggle bar is automatically release from the hole plug, to automatically adjust the toggle bar to the locking position. Appropriate correction and/or explanation are required.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. **Claims 34-45 are rejected** under 35 U.S.C. 103(a) as being unpatentable over US Pat No 5,702,218 to Onofrio in view of US Pat No 3,332,118 to Temple et al (Temple) and further in view of US Pat No 4,615,514 to Hamlin.

Regarding claim 34, Onofrio discloses a toggle bolt comprising a hole plug (16') that has a hole plugging portion (main body) for centering the plug in the hole (22)

and a lip portion (where 16' is pointing in Figure 7) for fixing the position of the plug against the object (24).

The bolt further comprises a toggle bar (18) adapted for pivoting between a closed position for insertion through the hole into the opening space and an open position in which the toggle bar cannot be withdrawn from the opening space back through the hole.

Onofrio fails to disclose that a flexible cable having a proximal end having an anchoring attachment and a distal end connected to the toggle bar. At the instant, Onofrio discloses the use of a rod.

Temple teaches that it is well known in the art to have a flexible member that could be a cable (Figures 1 and 2).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the member described by Onofrio as a flexible cable, as taught by Temple, in order to, first, provide a simple way to operate the toggle bar, and second, since it is considered as a design consideration within the fastener art that will not affect the mechanism of the toggle bar.

Further, Onofrio fails to disclose that an end of the toggle bar is adapted for locking engagement with the hole plug in the closed position. Onofrio illustrates that the ends of the toggle bar are capable to rest against the cone surface of the hole plug (16') in the closed position.

Hamlin teaches that it is well known in the art to provide a plug (36) that includes a recess that is capable of receiving and holding a toggle bar in a closed position.

It would be obvious to one having ordinary skill in the art at the time the invention was made to provide the plug member described by Onofrio with a recess that can be adapted to receive the toggle bar, as taught by Hamlin, in order to hold the toggle bar in the closed position so as to introduce the bar through the opening of the member.

As to claim 35, Onofrio, as modified by Hamlin, teaches that the end of the toggle bar is adapted for releasable retention in a recess of the hole plug to provide the locking engagement.

As to claim 36, Onofrio, as modified by Temple and Hamlin, teaches that the cable extends through a substantially centrally disposed aperture through the hole plug, and wherein the end of the toggle bar is tapered to provide for the retention.

As to claims 37-39, Onofrio discloses that the toggle bolt further comprises a plug biasing compression spring (26) for biasing the hole plug toward the toggle bar.

As to claims 40-45, Onofrio fails to disclose that the toggle bolt further comprises a toggle bar pivot control member for manipulation of the toggle bar.

Hamlin teaches that it is well known in the art to provide a toggle pivot control member (25 or 27) for manipulation of a toggle bar (20 or 22).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the toggle bolt described by Onofrio with a control member, as taught by Hamlin, in order to be able to move the toggle bar.

7. **Claims 46-59 are rejected** under 35 U.S.C. 103(a) as being unpatentable over US Pat No 5,702,218 to Onofrio in view of US Pat No 3,332,118 to Temple et al (Temple)

and further in view of US Pat No 4,615,514 to Hamlin as applied to claims 34-45, and further in view of US Pat No 5,209,621 to Burbidge.

As to claims 46-57, Onofrio, as modified by Temple and Hamlin, fails to disclose that the toggle bar further comprises a toggle bar return spring attached to the toggle bar.

Burbidge teaches that it is well known in the art to have a toggle bolt assembly comprising a toggle bar (18) that has a toggle bar returns spring (40).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to incorporate into Onofrio's device a toggle return spring, as taught by Burbidge, in order to bias the toggle bar to the open position after been inserted through the opening.

As to claims 58 and 59, Onofrio, as modified by Temple, Hamlin and Burbidge, teaches a method for anchoring to an object having a hole threrethrough leading to an opening space comprising the steps of providing a safety toggle bolt having a handle member and a toggle bar pivotally connected to the handle member; locking the toggle bar in a closed position; inserting the safety toggle bolt through the hole; and pushing on the handle member so as to unlock the toggle bar from the closed position, wherein the toggle bar automatically opens to an open position.

Response to Arguments

8. Applicant's arguments filed on October 21, 2005 have been fully considered but they are not persuasive.

The applicant argues that the rejection using Temple as a teaching that it is well known in the art to use a flexible cable is inappropriate and that is not a design consideration (Page 14 Line 19), the argument is not persuasive. At the instant, the applicant has not shown any critically of why is so important to use a flexible cable instead of a rod. Further, Coates also teach that is well known in the art to use different methods in a toggle bolt (chain and rod). Therefore, the rejection using Temple as a teaching is maintained.

The applicant further argues that by amending the claims by adding the limitation that the hole plug provides for locking engagement with the toggle bar in the closed position (Page 15 Line 1), Onofrio, as modified by Hamlin discloses that limitation.

Conclusion

9. THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Art Unit: 3676

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Carlos Lugo whose telephone number 571-272-7058.

The examiner can normally be reached on 9-6pm EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Brian Glessner can be reached on 571-272-6843. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-306-5771.

C.L.

Carlos Lugo
Patent Examiner
AU 3676

February 21, 2006.



BRIAN E. GLESSNER
SUPERVISORY PATENT EXAMINER